MONTANA LEGISLATIVE HISTORY

Chapter 13 1993

Bill H _____ S 24 Original bill & history ✓ C

H. Committee on Judiciary

Hearing Date(s) _____ C

1/21 ✓ C

_____ C

_____ C

Date Out 1/21 ✓ C

S. Committee on Bus & Industry

Hearing Date(s) _____ C

1/6 ✓ C

_____ C

1/8 ✓ C

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

SB 24 INTRODUCED BY BLAYLOCK

CLARIFY THAT EMPLOYER-PAID INSURANCE PREMIUMS ARE NOT MARITAL DISCRIMINATION

12/23	INTRODUCED		
12/23	REFERRED TO BUSINESS & INDUSTRY		
1/04	FIRST READING		
1/06	HEARING		
1/08	COMMITTEE REPORT—BILL PASSED AS AMENDED		
1/09	2ND READING PASSED	47	1
1/11	3RD READING PASSED	48	1
	TRANSMITTED TO HOUSE		
1/12	FIRST READING		
1/12	REFERRED TO JUDICIARY		
1/21	HEARING		
1/22	COMMITTEE REPORT—BILL CONCURRED		
1/25	2ND READING CONCURRED	95	3
1/27	3RD READING CONCURRED	93	4
	RETURNED TO SENATE		
1/30	SIGNED BY PRESIDENT		
2/01	SIGNED BY SPEAKER		
2/01	TRANSMITTED TO GOVERNOR		
2/02	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 13		
	EFFECTIVE DATE: 02/01/93		

SB 25 INTRODUCED BY VAUGHN

AUTHORIZE MULTIJURISDICTIONAL SERVICE DISTRICT TO PROVIDE DISPATCH SERVICES

12/23	INTRODUCED		
12/23	REFERRED TO LOCAL GOVERNMENT		
1/04	FIRST READING		
1/04	FISCAL NOTE REQUESTED		
1/07	HEARING		
1/11	FISCAL NOTE RECEIVED		
1/11	FISCAL NOTE PRINTED		
1/15	COMMITTEE REPORT—BILL PASSED AS AMENDED		
1/16	2ND READING PASSED	47	0
1/18	3RD READING PASSED	48	0
	TRANSMITTED TO HOUSE		
1/19	FIRST READING		
1/19	REFERRED TO LOCAL GOVERNMENT		
3/04	HEARING		
3/05	COMMITTEE REPORT—BILL CONCURRED		
3/08	2ND READING CONCURRED	95	5
3/10	3RD READING CONCURRED	98	1
	RETURNED TO SENATE		
3/13	SIGNED BY PRESIDENT		
3/15	SIGNED BY SPEAKER		
3/16	TRANSMITTED TO GOVERNOR		
3/18	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 116		
	EFFECTIVE DATE: 03/18/93		

SB 26 INTRODUCED BY KENNEDY

REQUIRE FISH, WILDLIFE, AND PARKS TO COMPLETE BIG GAME DRAWINGS AND PERMITTEE NOTICE BY JULY 1

12/23	INTRODUCED

SENATE BILL NO. 24

INTRODUCED BY BLAYLOCK

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THAT PAYMENT OF PREMIUMS TOWARD GROUP INSURANCE FOR EMPLOYEES AND THEIR DEPENDENTS IS NOT MARITAL STATUS DISCRIMINATION UNDER THE MONTANA HUMAN RIGHTS ACT; AMENDING SECTIONS 2-18-702, 2-18-703, 49-2-303, 49-2-309, AND 49-2-403, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 2-18-702, MCA, is amended to read:

"2-18-702. Group insurance for public employees and officers. (1) All counties, cities, towns, school districts, and the board of regents shall upon approval by two-thirds vote of their respective officers and employees enter into group hospitalization, medical, health, including long-term disability, accident, and/or group life insurance contracts or plans for the benefit of their officers and employees and their dependents. It is not discrimination on the basis of marital status for an employer to make all or part of the premium contributions toward group insurance for employees and their dependents.

(2) State employees and elected officials, as defined in 2-18-701, may participate in ~~such~~ state employee group benefit plans as are provided for under part 8 of this chapter.

(3) For state officers and employees, the premiums required from time to time to maintain the insurance in force ~~shall~~ must be paid by the insured officers and employees, and the auditor shall deduct the premiums from the salary or wages of each officer or employee who elects to become insured, on the officer's or employee's written order, and issue ~~his~~ a warrant ~~therefor~~ for the premiums to the insurer.

(4) For the purpose of this section, the plans of health service corporations for defraying or assuming the cost of professional services of licentiates in the field of health or the services of hospitals, clinics, or sanitariums or both professional and hospital services ~~shall~~ must be construed as group insurance and the dues payable under ~~such~~ the plans ~~shall~~ must be construed as premiums ~~therefor~~ for group insurance.

(5) If the board of trustees of a school district implements a self-insured group health plan or if the board of regents implements an alternative to conventional insurance to provide group benefits to its employees, the board shall maintain the alternative plan on an actuarially sound basis."

Section 2. Section 2-18-703, MCA, is amended to read:

SB 0024/01

"2-18-703. Contributions. (1) Each agency, as defined in 2-18-601, shall contribute the amount specified in this section towards the group benefits cost.

(2) For employees defined in 2-18-701, other than members of collective bargaining units, and for members of the legislature, the employer contribution for group benefits ~~shall be~~ is $170 per month for the fiscal year ending June 30, 1992, and $190 per month for the fiscal year ending June 30, 1993, and for each fiscal year thereafter. When a state employee is terminated to achieve a reduction in force, the continuation of contributions for group benefits beyond the termination date is subject to negotiation under 39-31-305. Permanent part-time, seasonal part-time, and temporary part-time employees who are regularly scheduled to work less than 20 hours a week are not eligible for the group benefit contribution. An employee who elects not to be covered by a state-sponsored group benefit plan may not receive the state contribution as wages. A portion of the employer contribution for group benefits may be applied to an employee's costs for participation in Part B of medicare under Title XVIII of the Social Security Act of 1965, as amended, if the state group benefit plan is the secondary payer and medicare the primary payer.

(3) For employees of elementary and high school

districts and of local government units, the employer's premium contributions may exceed but may not be less than $10 per month.

(4) Unused employer contributions for any state employee must be transferred to an account established for this purpose by the department of administration and upon transfer may be used to offset losses occurring to the group of which the employee is eligible to be a member.

(5) Unused employer contributions for any government employee may be transferred to an account established for this purpose by a self-insured government and upon transfer may be used to offset losses occurring to the group of which the employee is eligible to be a member or to increase the reserves of the group.

(6) It is not discrimination on the basis of marital status for an employer to make all or part of the premium contributions toward group insurance for employees and their dependents."

Section 3. Section 49-2-303, MCA, is amended to read:

"49-2-303. Discrimination in employment. (1) It is an unlawful discriminatory practice for:

(a) an employer to refuse employment to a person, to bar ~~him~~ a person from employment, or to discriminate against ~~him~~ a person in compensation or in a term, condition, or privilege of employment because of ~~his~~ race, creed,

religion, color, or national origin or because of ~~his~~ age, physical or mental handicap, marital status, or sex when the reasonable demands of the position do not require an age, physical or mental handicap, marital status, or sex distinction;

(b) a labor organization or joint labor management committee controlling apprenticeship to exclude or expel any person from its membership or from an apprenticeship or training program or to discriminate in any way against a member of or an applicant to the labor organization or an employer or employee because of race, creed, religion, color, or national origin or because of ~~his~~ age, physical or mental handicap, marital status, or sex when the reasonable demands of the program do not require an age, physical or mental handicap, marital status, or sex distinction;

(c) an employer or employment agency to print or circulate or cause to be printed or circulated a statement, advertisement, or publication or to use an employment application ~~which~~ that expresses, directly or indirectly, a limitation, specification, or discrimination as to sex, marital status, age, physical or mental handicap, race, creed, religion, color, or national origin or an intent to make the limitation, unless based upon a bona fide occupational qualification;

(d) an employment agency to fail or refuse to refer for

employment, to classify, or otherwise to discriminate against any individual because of sex, marital status, age, physical or mental handicap, race, creed, religion, color, or national origin, unless based upon a bona fide occupational qualification.

(2) The exceptions permitted in subsection (1) based on bona fide occupational qualifications ~~shall~~ must be strictly construed.

(3) Compliance with 2-2-302 and 2-2-303, which prohibit nepotism in public agencies, may not be construed as a violation of this section.

(4) The application of a hiring preference as provided for in 2-18-111 and 18-1-110 may not be construed to be a violation of this section.

(5) It is not discrimination on the basis of marital status for an employer to make all or part of the premium contributions toward group insurance for employees and their dependents."

Section 4. Section 49-2-309, MCA, is amended to read:

"**49-2-309. Discrimination in insurance and retirement plans.** (1) It is an unlawful discriminatory practice for ~~any~~ a financial institution or person to discriminate solely on the basis of sex or marital status in the issuance or operation of any type of insurance policy, plan, or coverage or in any pension or retirement plan, program, or coverage,

including discrimination in regard to rates or premiums and payments or benefits.

(2) This section does not apply to any insurance policy, plan, or coverage, or to any pension or retirement plan, program, or coverage in effect prior to October 1, 1985.

(3) It is not discrimination on the basis of marital status for an employer to make all or part of the premium contributions toward group insurance for employees and their dependents."

Section 5. Section 49-2-403, MCA, is amended to read:

"**49-2-403. Specific limits on justification.** (1) Except as permitted in 49-2-303(3) and--(4) through (5) and 49-3-201(5), sex, marital status, age, physical or mental handicap, race, creed, religion, color, or national origin may not comprise justification for discrimination except for the legally demonstrable purpose of correcting a previous discriminatory practice.

(2) Age or mental handicap may represent a legitimate discriminatory criterion in credit transactions only as it relates to a person's capacity to make or be bound by contracts or other obligations."

NEW SECTION. **Section 6. Effective date.** [This act] is effective on passage and approval.

-End-

MINUTES

MONTANA SENATE
53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS & INDUSTRY

Call to Order: By J.D. Lynch, Chair, on January 6, 1993, at 10:00 a.m.

ROLL CALL

Members Present:

Sen. J.D. Lynch, Chair (D)
Sen. Chris Christiaens, Vice Chair (D)
Sen. Betty Bruski-Maus (D)
Sen. Delwyn Gage (R)
Sen. Tom Hager (R)
Sen. Ethel Harding (R)
Sen. Ed Kennedy (D)
Sen. Terry Klampe (D)
Sen. Francis Koehnke (D)
Sen. Kenneth Mesaros (R)
Sen. Doc Rea (D)
Sen. Daryl Toews (R)
Sen. Bill Wilson (D)

Members Excused: None.

Members Absent: None.

Staff Present: Bart Campbell, Legislative Council
Kristie Wolter, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: SB 24
Executive Action: None.

Announcements:

Chair Lynch stated the secretary will note the roll instead of calling it daily. The roll is to stay open for late comers to the meeting.

HEARING ON SB 24

Opening Statement by Sponsor:

Senator Chet Blaylock, Senate District 43, stated SB 24 addresses marital status and would clear up problems with medical group insurance regarding fairness of coverage and the rates being charged single people and people with dependents.

Proponents' Testimony:

Phil Campbell, Montana Education Association (MEA), stated SB 24 addresses problems that the MEA has had and the education industry faces. SB 24 addresses questions about an employer providing health care or insurance for their dependents. There has been an indication that providing family coverage costing more than the single coverage is marital status discrimination. The threat of discrimination charges has caused fear among employers; they don't want to offer health insurance to employees and their dependents because of the fear of being sued for marital status discrimination. There has been no rulings on any of the charges filed regarding this issue. Legal counsels have told the employers they should be extra careful when choosing insurance coverage. Employers are interpreting these warnings to mean companies should not provide different coverage for different employees.

Mr. Campbell commented the language presented in SB 24 states it is not discrimination for the employer to make all, or part of, the premium contributions toward group insurance for employees and their dependents. SB 24 is not based on "marital status", but is based on employees and their dependents. A single person can still have dependents. The terms "single" and "family" in insurance companies don't depend on marital status at all. It wouldn't be considered marital status discrimination for an employer to provide insurance for their employees and dependents. Mr. Campbell closed stating that he urged the Committee's swift consideration in favor of SB 24 (Mr. Campbell did not sign the visitor register)

Father Jerry Lowney, Representative of the Social Justice Committee of The Roman Catholic Diocese Priest Council and a member of the faculty at Carroll College stated he felt SB 24 is a very pro-family bill. Carroll College has had instances where professors who are single and maintenance people with lower incomes who have dependents were paying the same amount of premium. Carroll has had a struggle with the legality of their policy. Father Lowney strongly supported SB 24.

Don Waldern, Montana Rural Education Association (MREA), came forth stating the MREA supports SB 24. Mr. Waldern stated SB 24 is not only a bill for the employee, but also for the employer. He strongly supported SB 24 and urged the Committee's support.

Terry Minow, Montana Federation of Teachers, Montana Federation of State Employees, Montana Federation of Health Care Employees, stated that all of the above federations support SB 24 and that the passing of SB 24 would eliminate significant labor/management problems.

Loren Frazier, School Administrators of Montana, showed his support of SB 24.

Alec Hanson, Montana League of Cities and Towns supported SB 24. (Mr. Hanson did not sign the visitors register)

Gordon Morton, Director of the Association of Counties, showed support for SB 24 after looking at the California statutes and asks for the Committee's favorable consideration of SB 24.

Steve Turkiewicz, Montana Auto Dealers Association, stated that he represents approximately 4,000 Montanans who support SB 24.

Tom Hopgood, Health Association of America rose in support of SB 24. (Mr. Hopgood did not sign the visitors register, but is a registered lobbyist for the Legislative Session.)

Larry Akey, Montana Association of Life Underwriters, stating he represents over 600 people, rose in support of SB 24.

Howard Bailey, Program Administrator of the Montana Unified School Trust, encouraged the support of SB 24.

Dave Nevenson, Montana University Systems, supported SB 24 and stated he represents over 488 employees. (Mr. Nevenson did not sign the visitors register.)

Opponents' Testimony:

None.

Informational Testimony:

Ann MacIntyre, Administrator for the Human Rights Commission, stated the commission has taken no position on SB 24. The administration realized there is a problem, but felt the language in SB 24 is ambiguous. Ms. MacIntyre proposed amendments to clarify SB 24. She provided a draft of suggested amendments. (Exhibit #1) The commission staff felt there should be an amendment to part 3 of Title 49 as well as the amendments recommended.

Questions From Committee Members and Responses:

Senator Lynch was confused on the policies and whether the contribution by the school district was per teacher or per dependent toward insurance premiums. Mr. Campbell responded plans vary and the insurance company takes an average of single and family rates and develops a composite rate. The employer then contributes the composite rate on behalf of every employee which goes toward an overall group insurance premium. He also added when an employer pays the whole premium, there is usually not a problem. When the employer cuts back on payments of the premiums and the employees are picking up a portion of the

payment is when there is a problem. For example, every employee has to kick in $20.00. That amount is their share, and the employer will pay the rest. The single person will question the amount they kick in for single coverage, when another person with three dependents is paying the same amount. The single person will say they are being discriminated against.

Senator Harding asked Mr. Hopgood who SB 24 would affect. Mr. Hopgood responded by saying SB 24 will reach both governmental and private entities which cover both families and single people for the same amount. Senator Harding then questioned whether it was up to the employer to decide whether or not they want to supply the kind of insurance that would cause marital discrimination questions and, in the case of insurance that covers both families and singles, if the single person was subsidizing the married persons insurance. Mr. Hopgood responded the final decision did lie upon the employer and it was true the single person was subsidizing the married persons insurance.

Senator Klampe addressed Mr. Campbell to clarify under some of the plans, a person could be single and still get the dependents covered. Mr. Campbell responded that was true. Senator Klampe then questioned if it wasn't just a semantics game. Mr. Campbell agreed it was a semantics game and the bill should not be called the Marital Status Bill. The Human Rights Commission (HRC) submitted a letter of opinion to questions from Montana School Board Association and the question came up about the provision of money and the method of payment. The opinion came back the methods of payments would be described as marital status discrimination. The point of SB 24 is payments and the benefits received from the group insurance. Senator Klampe submitted SB 24 should be worded "dependent status" and not "marital status". Mr. Campbell responded the MEA was trying to clarify the language isn't the problem of SB 24. The HRC stated the language as "Marital Status" and that is why SB 24 is called the Marital Status Bill.

Senator Toews addressed Mr. Campbell and asked whether SB 24 was a reversal proposition of what Mr. Campbell's organization had proposed three or four years ago. Mr. Campbell responded it wasn't. Senator Toews then inquired if there was any assurance SB 24 would stand up in court. Mr. Lynch answered any bill could be tested in the court of law and the drafting process by the legal council is the best legal test available to the Committee at this point.

Senator Rea asked Mr. Campbell if there was a law stating that an employer can not offer an employee the right to the money differential. Mr. Campbell stated that there was no law, but that was the way that group insurance worked. The purpose of group insurance is purchasing power and that is why the employer offers it.

Senator Christiaens referring to section 2, when SB 24 talked

about $170 a month for the fiscal year of 1992, and $190 for 1993, if there was any way that those amounts could be left out and the bill be generalized. Mr. Campbell stated the amounts were current law and was not sure what the legislature will do with the amounts. Mr. Campbell stated the bill does not deal with the issue of the amounts.

Senator Lynch wanted to know if SB 24 would prevent people from suing. Mr. Campbell stated that people could sue on other grounds, but not on the marital status bill.

Senator Koehnke inquired about employers charging employees for dependents who were covered and how many were covered, and if charging different amounts would eliminate lawsuits. Mr Campbell responded that he didn't know that there would be a lawsuit in the case stated. Mr. Campbell then reiterated the problem is in the cases where the employees are all paying the same amount for different coverage.

Closing by Sponsor:

Senator Blaylock closed saying that he would take no position on the amendments and would like the opportunity to look at the amendments and the bill before taking a stand.

Announcement:

Chair Lynch stated that he would like to take executive action on SB 24 on Friday after the hearing on SB 51.

ADJOURNMENT

Adjournment: 10:45 a.m.

J D Lynch

Senator J.D. Lynch, Chair

Kristie Wolter

Kristie Wolter, Secretary

JDL/klw

ROLL CALL

SENATE COMMITTEE Business & Industry DATE 1/6/93

NAME	PRESENT	ABSENT	EXCUSED
Senator Lynch	/		
Senator Christiaens	/		
Senator Bruski-Maus	/		
Senator Gage	/		
Senator Hager	/		
Senator Harding	/		
Senator Kennedy	/		
Senator Klampe	/		
Senator Kuehnke	/		
Senator Mesaros	/		
Senator Rea	/		
Senator Toews	/		
Senator Wilson	/		

FC8

Attach to each day's minutes

Amendment to Senate Bill No. 24 (white copy)
Prepared by Anne MacIntyre
January 6, 1993

1. Page 1, line 20.
   Following: dependents.
   Strike: the remainder of lines 20 - 23 in their entirety
   Insert: "The laws prohibiting discrimination on the basis of marital status in Title 49 do not prohibit public group insurance plans from providing additional or greater contributions for insurance benefits to employees with dependents than to employees without or with fewer dependents."

2. Page 4.
   Strike: Lines 15 - 18 in their entirety
   Insert: "The laws prohibiting discrimination on the basis of marital status in Title 49 do not prohibit public group insurance plans from providing additional or greater contributions for insurance benefits to employees with dependents than to employees without or with fewer dependents."

3. Page 6.
   Strike: Lines 15 - 18 in their entirety
   Insert: "(5) It is not a violation of the prohibition against marital status discrimination in this section for an employer or labor organization to provide greater or additional contributions to a bona fide group insurance plan for employees with dependents than to those employees without or with fewer dependents."

4. Page 7.
   Strike: Lines 7 - 10 in their entirety
   Insert: "(3) It is not a violation of the prohibition against marital status discrimination in this section for an employer to provide greater or additional contributions to a bona fide group insurance plan for employees with dependents than to those employees without or with fewer dependents."

5. Page 7.
   Following: line 22
   Insert: "NEW SECTION. **Section 6.** Section 49-3-103, MCA, is amended to read:

SENATE BUSINESS & LABOR
EXHIBIT NO. 1
DATE 1/6/93
BILL NO. SB 24

"**49-3-103. Permitted distinctions.** (1) Nothing in this chapter prohibits any public ~~or private~~ employer:

(a) from enforcing a differentiation based on marital status, age, or physical or mental handicap when based on a bona fide occupational qualification reasonably necessary to the normal operation of the particular business or where the differentiation is based on reasonable factors other than age;

(b) from observing the terms of a bona fide seniority system or any bona fide employee benefit plan, such as a retirement, pension, or insurance plan, that is not a subterfuge to evade the purposes of this chapter, except that an employee benefit plan may not excuse the failure to hire any individual; or

(c) from discharging or otherwise disciplining an individual for good cause.

(d) from providing greater or additional contributions to a bona fide group insurance plan for employees with dependents than to those employees without or with fewer dependents.

(2) The application of an employment preference as provided for in 2-18-111, 10-2-402, 18-1-110, and Title 39, chapter 29 or 30, by a public employer as defined in 39-29-101 and 39-30-103 may not be construed to constitute a violation of this chapter."

Renumber: Subsequent section

DATE 1/24/92

SENATE COMMITTEE ON ~~SB 24~~ Business & Industry

BILLS BEING HEARD TODAY: SB 24

Name	Representing	Bill No.	Check One: Support	Oppose
Fr. Jerry Lawson	Priests Council / Diocese of Helena	SB 24	✓	
Sharon Hoff	Mont Cath Conf	"	✓	
Tim Bergstrom	Mt. State Firemens Assoc	SB 24	✓	
Gordon Morris	MACo	SB24	✓	
Terry Minow	Mt. Fed. of Teachers	SB24	✓	
Steve Turkiewicz	Mt. Auto Dealers Ass	"	✓	
Howard R Bailey	Mt. Unified Sch Trustees		✓	
Loran FRAZier	SAM	" 24	✓	
Don Waldron	MREA	HB 24	✓	
R THROSSELL	AIA	SB 24	—	—
LARRY AKEY	Mt Assoc of Life Underwriters		✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

F10

MINUTES

MONTANA SENATE
53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS & INDUSTRY

Call to Order: By J.D. Lynch, Chair, on January 8, 1993, at 10:00 a.m.

ROLL CALL

Members Present:

Sen. J.D. Lynch, Chair (D)
Sen. Chris Christiaens, Vice Chair (D)
Sen. Betty Bruski-Maus (D)
Sen. Delwyn Gage (R)
Sen. Tom Hager (R)
Sen. Ethel Harding (R)
Sen. Ed Kennedy (D)
Sen. Terry Klampe (D)
Sen. Francis Koehnke (D)
Sen. Kenneth Mesaros (R)
Sen. Doc Rea (D)
Sen. Daryl Toews (R)
Sen. Bill Wilson (D)

Members Excused: None.

Members Absent: None.

Staff Present: Bart Campbell, Legislative Council
Kristie Wolter, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:
Executive Action: SB 24

EXECUTIVE ACTION ON SB 24

Discussion:

Senator Lynch announced Senator Blaylock was not available to present SB 24. Phil Campbell stood in Senator Blaylock's place in the discussion of the amendments proposed by the Human Rights Commission and said Senator Blaylock did not approve of the completed amendments.

Phil Campbell, Montana Education Association (MEA), stood before the committee and stated he and Ann MacIntyre, Administrator of

the Human Rights Commission had come to an agreement on most of the amendments. In paragraph one, Mr. Campbell asked the Committee strike the word "public" and insert "bona fide". He asked the same be done in the second paragraph. On page two of the amendments, Ann MacIntyre asked the Committee add section 49-3-103, which was not currently part of the bill. Mr. Campbell stated he had no objections to adding this section, except Ms. MacIntyre ask they strike the words "or private", and Mr. Campbell would like to leave it in. This section is in the chapter of the Government Code of Fair Practices. Mr Campbell felt the language which has been in the Code since 1975 should not be dealt with at this time.

Ann MacIntyre, Administrator for the Human Rights Commission, agreed with the first changes brought before the Committee. On the second page of the amendments, Ms. MacIntyre wanted to clean up the language by eliminating "or private". Under chapter three provisions, the law does not apply to private employers, it only applies to public employers. Provisions on the bill on pages 4-6 made the exception of private employers.

Bart Campbell, Legislative Council, stated he agreed with Ann on the subject of eliminating "or private" and the language is superfluous. The elimination of the phrase would simply clarify the bill.

Senator Lynch asked if Senator Blaylock felt strongly about changing the language. Phil Campbell stated Senator Blaylock felt the problem which needed to be solved was the problem with the insurance and not the language. Mr. Campbell, speaking for Senator Blaylock, stated if the Committee struck the language, it would look like the private employers are being exempted from the exemptions, and the issue would cloud the intent of the bill.

Senator Christiaens addressed Ann MacIntyre and stated he wanted to leave the private employer in the amendments to clarify it would not exempt private employers. Ms. MacIntyre rebutted, saying nothing in the section effects any private employer in any way.

Bart Campbell, Legislative Council addressed Ann and asked if the changes in SB 24 should fall under the title of the Montana Human Rights Act, and if it would be a broad enough title. Ann stated she felt the only change necessary was on line seven, and there was a need to change the word "act" to "laws".

Senator Gage asked some questions to clarify the issue for himself since he had missed a lot of the meeting on January 6. Ms. MacIntyre and Mr. Lynch helped to clarify the issue.

Motion/Vote:

Senator Christiaens moved to AMEND SB 24. Motion CARRIED UNANIMOUSLY.

Motion/Vote:

Senator Gage moved SB 24 DO PASS AS AMENDED. Motion CARRIED 11 to 1 with Senator Klampe voting NO.

-

ADJOURNMENT

Adjournment: 10:16 a.m.

Senator J.D. Lynch, Chair

Kristie Wolter, Secretary

JDL/klw

ROLL CALL

SENATE COMMITTEE Business & Industry DATE 1/8/93

NAME	PRESENT	ABSENT	EXCUSED
Senator Lynch	✓		
Senator Christiaens	✓		
Senator Bruski-Maus	✓		
Senator Gage	✓		
Senator Hager	✓		
Senator Harding	✓		
Senator Kennedy	✓		
Senator Klampe	✓		
Senator Kuehnke	✓		
Senator Mesaros	✓		
Senator Rea	✓		
Senator Toews	✓		
Senator Wilson	✓		

FC8

Attach to each day's minutes

SENATE STANDING COMMITTEE REPORT

January 8, 1993

MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration Senate Bill No. 24 (first reading copy -- white), respectfully report that Senate Bill No. 24 be amended as follows and as so amended do pass.

Signed: _____
John "J.D." Lynch, Chair

That such amendments read:

1. Title, line 7.
Following: "RIGHTS"
Strike: "ACT"
Insert: "LAWS"

2. Title, line 8.
Strike: "AND"
Following: "49-2-403,"
Insert: "AND 49-3-103,"

3. Page 1, line 20.
Following: "dependents."
Strike: the remainder of lines 20 through 23 in their entirety
Insert: "The laws prohibiting discrimination on the basis of marital status in Title 49 do not prohibit bona fide group insurance plans from providing greater or additional contributions for insurance benefits to employees with dependents than to employees without dependents or with fewer dependents."

4. Page 4, line 15.
Following: "(6)"
Strike: lines 15 through 18 in their entirety
Insert: "The laws prohibiting discrimination on the basis of marital status in Title 49 do not prohibit bona fide group insurance plans from providing greater or additional contributions for insurance benefits to employees with dependents than to employees without dependents or with fewer dependents."

5. Page 6, line 15.
Following: "(5)"
Strike: lines 15 through 18 in their entirety
Insert: "It is not a violation of the prohibition against marital status discrimination in this section for an employer or labor organization to provide greater or additional contributions to a bona fide group insurance plan for employees with dependents than to those employees without dependents or with fewer dependents."

6. Page 7, line 7.
Following: "(3)"
Strike: lines 7 through 10 in their entirety
Insert: "It is not a violation of the prohibition against marital status discrimination in this section for an employer to provide greater or additional contributions to a bona fide group insurance plan for employees with dependents than to those employees without dependents or with fewer dependents."

7. Page 7.
Following: line 22
Insert: "Section 6. Section 49-3-103, MCA, is amended to read:

"49-3-103. Permitted distinctions. (1) Nothing in this chapter prohibits any public ~~or private~~ employer:

(a) from enforcing a differentiation based on marital status, age, or physical or mental handicap when based on a bona fide occupational qualification reasonably necessary to the normal operation of the particular business or where the differentiation is based on reasonable factors other than age;

(b) from observing the terms of a bona fide seniority system or any bona fide employee benefit plan, such as a retirement, pension, or insurance plan, that is not a subterfuge to evade the purposes of this chapter, except that an employee benefit plan may not excuse the failure to hire any individual; ~~or~~

(c) from discharging or otherwise disciplining an individual for good cause~~.~~; or

(d) from providing greater or additional contributions to a bona fide group insurance plan for employees with dependents than to those employees without dependents or with fewer dependents.

(2) The application of an employment preference as provided for in 2-18-111, 10-2-402, 18-1-110, and Title 39, chapter 29 or 30, by a public employer as defined in 39-29-101 and 39-30-103 may not be construed to constitute a violation of this chapter."
Renumber: subsequent section

-END-

Amendments to Senate Bill No. 24
First Reading Copy

Requested by Senator Blaylock
For the Committee on Business and Industry

Prepared by Bart Campbell
January 8, 1993

1. Title, line 7.
Following: "RIGHTS"
Strike: "ACT"
Insert: "LAWS"

2. Title, line 8.
Strike: "AND"
Following: "49-2-403,"
Insert: "AND 49-3-103,"

3. Page 1, line 20.
Following: "dependents."
Strike: the remainder of lines 20 through 23 in their entirety
Insert: "The laws prohibiting discrimination on the basis of marital status in Title 49 do not prohibit bona fide group insurance plans from providing greater or additional contributions for insurance benefits to employees with dependents than to employees without dependents or with fewer dependents."

4. Page 4, line 15.
Following: "(6)"
Strike: lines 15 through 18 in their entirety
Insert: "The laws prohibiting discrimination on the basis of marital status in Title 49 do not prohibit bona fide group insurance plans from providing greater or additional contributions for insurance benefits to employees with dependents than to employees without dependents or with fewer dependents."

5. Page 6, line 15.
Following: "(5)"
Strike: lines 15 through 18 in their entirety
Insert: "It is not a violation of the prohibition against marital status discrimination in this section for an employer or labor organization to provide greater or additional contributions to a bona fide group insurance plan for employees with dependents than to those employees without dependents or with fewer dependents."

6. Page 7, line 7.
Following: "(3)"
Strike: lines 7 through 10 in their entirety
Insert: "It is not a violation of the prohibition against marital status discrimination in this section for an employer to provide greater or additional contributions to a bona fide

group insurance plan for employees with dependents than to those employees without dependents or with fewer dependents."

7. Page 7.
Following: line 22
Insert: "**Section 6.** Section 49-3-103, MCA, is amended to read:

"**49-3-103. Permitted distinctions.** (1) Nothing in this chapter prohibits any public ~~or private~~ employer:

(a) from enforcing a differentiation based on marital status, age, or physical or mental handicap when based on a bona fide occupational qualification reasonably necessary to the normal operation of the particular business or where the differentiation is based on reasonable factors other than age;

(b) from observing the terms of a bona fide seniority system or any bona fide employee benefit plan, such as a retirement, pension, or insurance plan, that is not a subterfuge to evade the purposes of this chapter, except that an employee benefit plan may not excuse the failure to hire any individual; ~~or~~

(c) from discharging or otherwise disciplining an individual for good cause~~.~~; or

(d) from providing greater or additional contributions to a bona fide group insurance plan for employees with dependents than to those employees without dependents or with fewer dependents.

(2) The application of an employment preference as provided for in 2-18-111, 10-2-402, 18-1-110, and Title 39, chapter 29 or 30, by a public employer as defined in 39-29-101 and 39-30-103 may not be construed to constitute a violation of this chapter."
Renumber: subsequent section

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN RUSSELL FAGG**, on January 21, 1993, at 9:00 a.m.

ROLL CALL

Members Present:

Rep. Russ Fagg, Chairman (R)
Rep. Randy Vogel, Vice Chairman (R)
Rep. Ellen Bergman (R)
Rep. Jody Bird (D)
Rep. Vivian Brooke (D)
Rep. Bob Clark (R)
Rep. Duane Grimes (R)
Rep. Scott McCulloch (D)
Rep. Jim Rice (R)
Rep. Angela Russell (D)
Rep. Tim Sayles (R)
Rep. Liz Smith (R)
Rep. Bill Tash (R)
Rep. Howard Toole (D)
Rep. Tim Whalen (D)
Rep. Karyl Winslow (R)
Rep. Diana Wyatt (D)

Members Excused: Rep. Dave Brown (D)

Members Absent: None.

Staff Present: John MacMaster, Legislative Council
Beth Miksche, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: SB 24
Executive Action: HB 127, SB 24

HEARING ON SB 24

Opening Statement by Sponsor:

REP. SCOTT MCCULLOCH, HD 96, Billings, opened SB 24 for **SENATOR CHET BLAYLOCK, SENATE DISTRICT 43, Laurel**, while **SEN. BLAYLOCK** was attending the Presidential Inauguration.

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THAT PAYMENT OF PREMIUMS TOWARD GROUP INSURANCE FOR EMPLOYEES AND THEIR DEPENDENTS IS NOT MARITAL STATUS DISCRIMINATION UNDER THE MONTANA HUMAN RIGHTS LAWS; AMENDING SECTIONS 2-18-702, 2-18,703, 49-2-303, AND 49-3-103, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

Proponents' Testimony:

Phil Campbell, Montana Education Association, stated the purpose of this bill is to clarify for employers to provide health care for employees and dependents is not marital status discrimination. There have been allegations that an employer must provide insurance to the employees and their dependents. This is not the case for the single employee with dependents. The employer is providing insurance for married employees and dependents, and not the single employee; therefore, it was based on marital discrimination. There was a preliminary report from investigators saying that this bill has gone into appeal. There has been no hearing and no litigation on this particular problem, employers back away from offering health insurance benefits for their employees' dependents. This issue should have nothing to do with marital discrimination because premium rates are set by the number of people using the policy. The Senate offered amendments to this bill.

Terry Minow, Montana Federation of Teachers, Montana Federation of State Employees, and **Montana Federation of Health Care Employees,** stated the aforementioned organizations strongly support SB 24 because it will allow employees to collectively bargain over the insurance that they are provided.

Alec Hansen, Executive Director, Montana League of Cities and Towns, maintained some companies simply cannot afford to provide the same amount to each employee, which would mean people with dependents would not get full or adequate insurance coverage. The amendment recognizes that employers can provide a health insurance program that covers all dependents, and this means that single people will get full coverage.

Dave Stevenson, University System, stated the University System's current staff of 488 individuals take advantage of the employee joint/spouse rate, which also covers their children without an out-of-pocket fee. There is a grievance clause in the University's contract that states in the event SB 24 does not pass, the employees will still have insurance.

Larry Akey, Montana Association of Life Underwriters (MALU), said the MALU consists of over 600 life insurance agents throughout the state of Montana. The previous proponent, **Terry Minow,** said this bill will have an impact on the public sector and collective bargaining packages; however, that's not the case. If passed, this legislation will improve affordability and availability of health insurance in the state of Montana.

The following proponents supported SB 24:
Don Waldron, Montana Rural Education Association.
Sandra Oitzinger, Montana Association of Counties.
Tom Hopgood, Attorney, Health Insurance Association of America.
Warren Fraser, School Administration of Montana.
Tim Bergstrom, Montana State Firemens' Association.

Opponents' Testimony: None.

Informational Testimony: None.

Questions From Committee Members and Responses:

REP. BILL TASH'S has a constituent who is a single parent with dependents and has indicated that she has had problems having claims recognized through her divorce status. He inquired if this bill would help her in this situation? **Mr. Campbell** said he is not sure if the employer would cover the dependents in this situation, and said the bill will not eliminate any potential discrimination.

Closing by Sponsor: None.

EXECUTIVE ACTION ON SB 24

Motion/Vote: **REP. VOGEL MOVED SB 24 BE CONCURRED IN.** Motion carried unanimously. **REP. MCCULLOCH** will carry in the House.

EXECUTIVE ACTION ON HB 127

Motion: **REP. RICE MOVED HB 127 DO PASS.**

Discussion:

REP. GRIMES is concerned that hearsay evidence would be used by adults when the real intention of this bill was to utilize social experts and other experts to talk to children rather than putting children on the stand. **REP. GRIMES** moved **REP. SAYLES'** amendments. **EXHIBIT 1**

Motion/Vote: Question on Amendments (first part of No. 1) and 3 only. They read as follows per final discussion:

1. Title, line 5.
Following: "EVIDENCE"
Insert: "OF THE YOUTH'S STATEMENTS"

3. Title, line 9.
Following: "evidence"
Insert: "of statements made by the affected youth"

HOUSE OF REPRESENTATIVES

Judiciary COMMITTEE

ROLL CALL VOTE

DATE 1-21-93 BILL NO. SB 24 NUMBER 18

MOTION: Do Pass As Amended

Carries Unanimously

NAME	AYE	NO
Rep. Russ Fagg, Chairman	✓	
Rep. Randy Vogel, Vice-Chair	✓	
Rep. Dave Brown, Vice-Chair	✓	
Rep. Jodi Bird	✓	
Rep. Ellen Bergman	✓	
Rep. Vivian Brooke	✓	
Rep. Bob Clark	✓	
Rep. Duane Grimes	✓	
Rep. Scott McCulloch	✓	
Rep. Jim Rice	✓	
Rep. Angela Russell	✓	
Rep. Tim Sayles	✓	
Rep. Liz Smith	✓	
Rep. Bill Tash	✓	
Rep. Howard Toole	✓	
Rep. Tim Whalen	✓	
Rep. Karyl Winslow	✓	
Rep. Diana Wyatt	✓	

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Judiciary COMMITTEE BILL NO. SB 24

DATE Jan. 21, 1993 SPONSOR(S) Blaylock

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Phil Campbell	MEA	X	
Tom Hopgood	Health Ins. Assoc. America	✓	
Sandra Oltzinger	MACo	✓	
Loran Frazer	SAM	✓	
Dan Waldron	MREA	✓	
LARRY AREY	ASSOC OF LIFE UNDERWRITERS	✓	
SHARON HOFF	MT CATHOLIC CONFERENCE	✓	
Jim Tillotson	City of Billings	✓	
Tom Foley	AFSCME	X	
Tim Bergstrom	MT. STATE FIREMENS' ASSOC	X	
Terry Minow	MT Fed. of Teachers State Emp. Health Care Emp. bgs	X	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.